

Matt Gorga

From: John Branch
Sent: Friday, January 20, 2023 10:48 AM
To: Herbert, Ian; Behre, Kirby; Rand, Ripley; Townsend, Jonathon; Jones, Christopher; O'Toole, Timothy; Marden, Cody; Lee, Calvin; Rillotta, Joseph
Cc: Jeff Kelly; Sam Rosenthal; Nate Pencook; Matt Gorga; Brandon Neuman
Subject: RE: subpoena and deficiency letter - Azima v. Del Rosso et al.

Ian,

Thanks for making the time for the call.

My understanding is that we are producing approximately 40 GB of electronic information today via a hard drive which will be hand-delivered to Womble's Raleigh office.

With regard to your email yesterday about the subpoenas, we believe that it is inappropriate for Plaintiff to attempt to leverage facially overly broad subpoenas, which are not in compliance with the Federal Rules of Civil Procedure and applicable case law, to obtain information that should be sought through the party discovery process. It is not our responsibility to write Plaintiff's discovery requests for him, and in any event there is a clear difference of opinion between the parties as to what the proper scope of discovery is in this case. It is Plaintiff's responsibility, however, to comply with the basic rules and case law governing proper scope of discovery, especially when it comes to seeking documents from third party financial institutions. Because the subpoenas do not limit the asked-for production to documents related to the allegations in the case, they are out of compliance with applicable law.

Defendants' position on the subpoenas to FNB and First Citizens is that they need to be withdrawn, in their entirety. If Plaintiff desires to withdraw them and re-issue subpoenas with a more narrow scope, we can address that at a later date.

Best regards,

John Branch



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From: Herbert, Ian <iherbert@milchev.com>
Sent: Friday, January 20, 2023 10:25 AM
To: John Branch <john.branch@nelsonmullins.com>; Behre, Kirby <kbehre@milchev.com>; Rand, Ripley

<Ripley.Rand@wbd-us.com>; Townsend, Jonathon <Jonathon.Townsend@wbd-us.com>; Jones, Christopher <Chris.Jones@wbd-us.com>; O'Toole, Timothy <TOtoole@milchev.com>; Marden, Cody <cmarden@milchev.com>; Lee, Calvin <clee@milchev.com>; Rillotta, Joseph <jrillotta@milchev.com>
Cc: Jeff Kelly <jeff.kelly@nelsonmullins.com>; Sam Rosenthal <sam.rosenthal@nelsonmullins.com>; Nate Pencook <nate.pencook@nelsonmullins.com>; Matt Gorga <matt.gorga@nelsonmullins.com>; Brandon Neuman <brandon.neuman@nelsonmullins.com>

Subject: RE: subpoena and deficiency letter - Azima v. Del Rosso et al.

John,

I can be on a call at 11. Can you please respond to Kirby's questions about the documents and my questions from yesterday regarding proposals for narrowing the subpoena before the call?

Regards,

Ian

IAN A. HERBERT

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From: John Branch <john.branch@nelsonmullins.com>

Sent: Friday, January 20, 2023 10:11 AM

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Cc: Jeff Kelly <jeff.kelly@nelsonmullins.com>; Sam Rosenthal <sam.rosenthal@nelsonmullins.com>; Nate Pencook <nate.pencook@nelsonmullins.com>; Matt Gorga <matt.gorga@nelsonmullins.com>; Brandon Neuman <brandon.neuman@nelsonmullins.com>

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EXTERNAL

Kirby,

I don't think I received a response to my email from yesterday asking for a call at 11:00 or 12:00 today. Is Plaintiff agreeing to conduct the meet-and-confer call at 11:00 today? I can send around an invitation if so.

Thanks,

John

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